

Amendment No. 3 to SB3137

Fowler
Signature of Sponsor

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Time _____

Clerk _____

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AMEND Senate Bill No. 3137

House Bill No. 3197*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. [Effective 07/01/02]

(1) Tennessee Code Annotated, Section 55-4-113(a)(6)(A), is amended by deleting the words, figures and symbols "fifty dollars (\$50.00)." and by substituting instead the following:

seventy-five dollars (\$75.00).

(2)

(a) Tennessee Code Annotated, Section 55-6-107(a), is amended by deleting the words, figures and symbols "ninety-eight percent (98%) thereof to the highway fund" and by substituting instead the following:

sixty-three percent (63%) thereof to the highway fund

(b) Tennessee Code Annotated, Section 55-6-107(a), is further amended by deleting the words, figures and symbols "two percent (2%) thereof to the general fund." and by substituting instead the following:

thirty-seven percent (37%) thereof to the general fund.

(3)

(a) Tennessee Code Annotated, Section 57-3-302(a), is amended by deleting the words, figures and symbols "one dollar and ten cents (\$1.10)" and by substituting instead the following:

one dollar and fifty-four cents (\$1.54)

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(b) Tennessee Code Annotated, Section 57-3-302(b) is amended by deleting the words, figures and symbols "four dollars (\$4.00)" and by substituting instead the following:

five dollars and sixty cents (\$5.60)

(c) Tennessee Code Annotated, Section 57-5-201(a)(1), is amended by deleting the words, figures and symbols "three dollars and ninety cents (\$3.90) per barrel" and by substituting instead the following:

five dollars and forty-six cents (\$5.46) per barrel

(d) Tennessee Code Annotated, Section 57-6-104(c)(5), is amended by deleting from the first sentence the words and punctuation "federal excise tax." and by substituting instead the following:

federal excise tax or in the state privilege tax levied in §57-5-201(a)(1).

(e) Notwithstanding any provision of law to the contrary, all increased revenues attributable to rate increases set forth in subsections (a) through (c) above shall be paid into the state's general fund and shall be allocated exclusively for general state purposes.

(4)

(a) Tennessee Code Annotated, Section 67-3-1301(a), is amended by deleting the words, figures and symbols "twenty cents (20¢) per gallon" and by substituting instead the following:

twenty-two cents (22¢) per gallon

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(b) Tennessee Code Annotated, Section 67-3-1302(a), is amended by deleting the words, figures and symbols "seventeen cents (17¢) per gallon" and by substituting instead the following:

nineteen cents (19¢) per gallon

(5)

(a) Tennessee Code Annotated, Section 67-4-1004(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) The rate shall be two and fifteen one-hundredths cents (2.15¢) on each cigarette.

(b) Tennessee Code Annotated, Section 67-4-1005, is amended by deleting the words, figure and symbols "six percent (6%) of the wholesale cost price." and by substituting instead the following:

seven percent (7%) of the wholesale cost price.

(6) Tennessee Code Annotated, Section 67-4-2007(a), is amended by deleting the words, figures and symbols "six percent (6%) of the net earnings" and by substituting instead the following:

six and one-fourth percent (6.25%) of the net earnings

(7) Tennessee Code Annotated, Section 67-6-102, is amended by inserting the following language as a new, appropriately numbered subsection:

(_) "Single article" means that which is regarded by common understanding as a separate unit exclusive of any accessories, extra parts, etc., and that which is capable of being sold as an independent unit or as a common

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unit of measure, a regular billing or other obligation. Such independent units sold in sets, lots, suites, etc., at a single price shall not be considered a single article. Parts or accessories for motor vehicles that are installed at the factory and delivered with the unit as original equipment and/or parts or accessories for motor vehicles that are installed by the dealer and/or distributor prior to sale, at the time of the sale, or which are included as part of the sales price of the vehicle shall be treated as a part of the unit. In addition, all necessary parts and equipment installed by a motor vehicle dealer which are essential to the functioning of the motor vehicle or are required to be installed on the motor vehicle prior to sale to the ultimate consumer pursuant to state or federal statutes relating to the lawful use of the motor vehicle shall be treated as a part of the unit. Boat motors, other parts or accessories for boats, freight, and labor, excluding trailers, shall be treated as part of the boat unit in the same manner as parts or accessories for motor vehicles are treated as part of the motor vehicle unit. Parts and accessories and any other additional or incidental items or services that are part of the sale of a manufactured home shall be treated as part of the manufactured home unit in the same manner as parts and accessories for motor vehicles are treated as part of the motor vehicle unit.

(8)

(a) Tennessee Code Annotated, Section 67-6-103(d), is amended by adding the following language as a new, appropriately designated subdivision:

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(3) Collection and distribution of state and local sales and use tax revenues pursuant to this subsection are subject to the provisions of §67-6-228(a).

(b) Tennessee Code Annotated, Section 7-88-106, is amended by adding the following language as a new, appropriately designated subsection:

(c) Collection and distribution of state and local sales and use tax revenues pursuant to this section are subject to the provisions of §67-6-228 (b).

(9)

(a)

(1) Tennessee Code Annotated, Section 67-6-103(f), is amended by deleting the words, figure and symbols "six percent (6%)" and by substituting instead the following:

seven percent (7%)

(2) Tennessee Code Annotated, Section 67-6-202(a), is amended by deleting the words, figure and symbols "six percent (6%)" and by substituting instead the following:

seven percent (7%)

(3) Tennessee Code Annotated, Section 67-6-203(a), is amended by deleting the words, figure and symbols "six percent (6%)" and by substituting instead the following:

seven percent (7%)

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(4) Tennessee Code Annotated, Sections 67-6-204(a)(1), (a)(2) and (c)(1), are amended by deleting the words, figure and symbols "six percent (6%)" and by substituting instead the following:

seven percent (7%)

(5) Tennessee Code Annotated, Section 67-6-205(a), is amended by deleting the words, figure and symbols "six percent (6%)" and by substituting instead the following:

seven percent (7%)

(b) Notwithstanding the provisions of §67-6-103(a)(3) or any other law to the contrary, all increased revenues attributable to the rate increase set forth in subsection (a) above shall be paid into the state's general fund and shall be allocated exclusively for general state purposes.

(10) Tennessee Code Annotated, Section 67-6-206(b)(1), is amended by deleting the words, figures and symbols "one and one-half percent (1.5%)" and by substituting instead the following:

two percent (2%)

(11) Tennessee Code Annotated, Section 67-6-218(a) and (b), are amended by deleting the words, figures and symbols "one and one-half percent (1.5%)" and by substituting instead the following:

two percent (2%)

(12) Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following language as a new, appropriately designated section:

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(a)

(1) Notwithstanding any provision of this act or any other law to the contrary, the existence and rate of any tax imposed under Title 67, Chapter 6, Part 2, as of June 30, 2002, shall remain undiminished by the provisions of this act to the extent that such taxes are to be distributed pursuant to §67-6-103(d) under a financing arrangement in effect as of June 30, 2002; **provided, however, if** the rate of any such tax is increased on or after July 1, 2002, **then** those revenue collections that are attributable to such rate increase shall be paid into the state's general fund and shall be allocated exclusively for general state purposes.

(2) Notwithstanding any provision of this act or any other law to the contrary, the existence and rate of any tax imposed under Title 67, Chapter 6, Part 7, as of June 30, 2002, shall remain undiminished by the provisions of this act to the extent that such taxes are to be distributed pursuant to §67-6-103(d) under a financing arrangement in effect as of June 30, 2002; **provided, however, if** the rate of any such tax is increased on or after July 1, 2002, **then** those revenue collections that are attributable to such rate increase shall be paid into the general fund of the municipality or the county, as appropriate.

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(b)

(1) Notwithstanding any provision of this act or any other law to the contrary, the existence and rate of any tax imposed under Title 67, Chapter 6, Part 2, as of June 30, 2002, shall remain undiminished by the provisions of this act to the extent that such taxes are to be distributed pursuant to §7-88-106 under a financing arrangement in effect as of June 30, 2002; **provided, however, if** the rate of any such tax is increased on or after July 1, 2002, **then** those revenue collections that are attributable to such rate increase shall be paid into the state's general fund and shall be allocated exclusively for general state purposes.

(2) Notwithstanding any provision of this act or any other law to the contrary, the existence and rate of any tax imposed under Title 67, Chapter 6, Part 7, as of June 30, 2002, shall remain undiminished by the provisions of this act to the extent that such taxes are to be distributed pursuant to §7-88-106 under a financing arrangement in effect as of June 30, 2002; **provided, however, if** the rate of any such tax is increased on or after July 1, 2002, **then** those revenue collections that are attributable to such rate increase shall be paid into the general fund of the municipality or county, as appropriate.

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(13) Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following language as a new, appropriately designated section:

§67-6-357.

(a)

(1) Except to the extent otherwise required by the provisions of §67-6-228, each year during the period from 12:00 a.m. on the first day of August through 11:59 p.m. on the third day of August, the first five hundred dollars (\$500) on the sale or use of any single article of clothing shall be exempt from the tax levied by this chapter.

(2) Except to the extent otherwise required by the provisions of §67-6-228, each year during the period from 12:00 a.m. on the first day of August through 11:59 p.m. on the third day of August, the first five hundred dollars (\$500) on the sale or use of any single article of protective equipment shall be exempt from the tax levied by this chapter.

(3) The sale of clothing accessories or equipment and sport or recreational equipment shall, at all times, remain subject to the tax levied by this chapter:

(b) For purposes of this section, "clothing" shall mean all human wearing apparel suitable for human use including, but not limited to:

(1) Aprons, household and shop;

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- (2) Athletic supporters;
- (3) Baby receiving blankets;
- (4) Bathing suits and caps;
- (5) Beach capes and coats;
- (6) Belts and suspenders;
- (7) Boots;
- (8) Coats and jackets;
- (9) Costumes;
- (10) Diapers (children and adults - including disposables);
- (11) Ear muffs;
- (12) Footlets;
- (13) Formal wear;
- (14) Garters and garter belts;
- (15) Girdles;
- (16) Gloves and mittens for general use;
- (17) hats and caps;
- (18) Hosiery;
- (19) Insoles for shoes;
- (20) Lab coats;
- (21) Neckties;
- (22) Overshoes;
- (23) Pantyhose;

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- (24) Rainwear;
- (25) Rubber pants;
- (26) Sandals;
- (27) Scarves;
- (28) Shoes and shoe laces;
- (29) Slippers;
- (30) Sneakers;
- (31) Socks and stockings;
- (32) Steel-toed shoes;
- (33) Underwear;
- (34) Uniforms, athletic and non-athletic; and
- (35) Wedding apparel.

(c) For purposes of this section, clothing shall not include:

- (1) Belt buckles sold separately;
- (2) Costume masks sold separately;
- (3) Patches and emblems sold separately;
- (4) Sewing equipment and supplies (knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, thimbles);
- (5) Sewing materials that become part of clothing (buttons, fabric, lace, thread, yarn, zippers); and

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(6) Otherwise exempt items sold on the premises of a sports facility as provided in §67-6-103(d).

(d) For purposes of this section, the following definitions are mutually exclusive of clothing and each other:

(1) "Clothing accessories or equipment" shall mean incidental items worn on the person or in conjunction with clothing. The following list is intended to be a list of examples and not an all-inclusive list of possibilities. Clothing accessories shall include:

(A) Briefcases;

(B) Cosmetics;

(C) Hair notions, including barrettes, hair bows, hair nets, etc.;

(D) Handbags;

(E) Handkerchiefs;

(F) Jewelry;

(G) Sun glasses, non-prescription;

(H) Umbrellas;

(I) Wallets;

(J) Watches; and

(K) Wigs and hair pieces.

(2) "Sport or recreational equipment" shall mean items designed for human use and worn in conjunction with an athletic

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or recreational activity that are not suitable for general use. The following list is intended to be a list of examples and not an all-inclusive list of possibilities. Sport or recreational equipment shall include:

- (A) Ballet and tap shoes;
- (B) Cleated or spiked athletic shoes;
- (C) Gloves (baseball, bowling, boxing, hockey, golf, etc.);
- (D) Goggles;
- (E) Hand and elbow guards;
- (F) Life preservers and vests;
- (G) Mouth guards;
- (H) Roller and ice-skates;
- (I) Shin guards;
- (J) Shoulder pads;
- (K) Ski boots;
- (L) Waders; and
- (M) Wetsuits and fins.

(3) "Protective equipment" shall mean items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. The following list is

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intended to be a list of examples and not an all-inclusive list of possibilities. Protective equipment shall include:

- (A) Breathing masks;
- (B) Clean room apparel and equipment;
- (C) Ear and hearing protectors;
- (D) Face shields;
- (E) Finger guards;
- (F) Hard hats;
- (G) Helmets;
- (H) Paint or dust respirators;
- (I) Protective gloves;
- (J) Safety glasses and goggles;
- (K) Safety belts;
- (L) Tool belts; and
- (M) Welders gloves and masks.

(e)

(1) Retailers are required to record and report to the department all exempt sales under this section.

(2) Failure to comply with the requirements of this subsection shall subject the retailer to a civil penalty in the amount of five hundred dollars (\$500) for each violation.

SECTION 2. [Effective 09/01/02]

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(1) Tennessee Code Annotated, Section 55-4-113(a), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) Fixed load vehicles, as defined in §55-1-117, so designated and used only for the transportation of equipment that is mounted thereon may be registered at a rate of twenty-five percent (25%) of the tax schedules set forth in subdivision (a)(2).

(2) Tennessee Code Annotated, Section 55-4-113(a), is further amended by deleting subdivision (2) and by substituting instead the following:

(2) Private Carriers, Public Carriers and Household Goods Carriers:

Every person, firm or corporation operating, for commercial purposes, a freight motor vehicle as herein defined over the roads of the state shall first register such vehicle with the department and shall pay therefor a tax as follows, according to the indicated classes set forth in this subdivision:

(A) Class 1. Freight motor vehicles with declared maximum gross weight, including vehicle and load, of not more than nine thousand pounds (9,000 lbs.). Registration tax \$ 48.50

(B) Class 2. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of sixteen thousand pounds (16,000 lbs.). Registration tax..... 102.50

(C) Class 3. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of twenty thousand pounds (20,000 lbs.). Registration tax..... 307.50

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(D) Class 4. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of twenty six thousand pounds (26,000 lbs.). Registration tax..... 461.00

(E) Class 5. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of thirty-two thousand pounds (32,000 lbs.). Registration tax..... 615.00

(F) Class 6. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of thirty-eight thousand pounds (38,000 lbs.). Registration tax 691.00

(G) Class 7. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of forty-four thousand pounds (44,000 lbs.). Registration tax..... 768.00

(H) Class 8. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of fifty-six thousand pounds (56,000 lbs.). Registration tax..... 922.00

(I) Class 9. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of sixty-six thousand pounds (66,000 lbs.). Registration tax..... 999.00

(J) Class 10. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of seventy-four thousand pounds (74,000 lbs.). Registration tax 1,178.50

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(K) Class 11. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of eighty thousand pounds (80,000 lbs.). Registration tax 1,332.50

(L) Class 12. Fixed load vehicles, as defined in §55-1-117, so designed and used only for the transportation of equipment that is mounted thereon may be registered at the rate of twenty-five percent (25%) of the tax schedules set forth in subdivision (1);

(3) Tennessee Code Annotated, Title 55, Chapter 4, Part 1, is amended by adding the following language as a new, appropriately designated section:

§55-4-133. In accordance with the following schedule, a vehicle registration surtax shall be annually levied on each vehicle registered under §55-4-111(a)(1), Classes A, B or C. The vehicle registration surtax shall be collected at the same time and in the same manner as registration taxes levied by §55-4-111(a)(1), Classes A, B and C. Notwithstanding the provisions of any law to the contrary, the vehicle registration surtax shall be deposited in the general fund and shall be allocated exclusively for general state purposes. For purposes of the following schedule, "age of vehicle" shall be based upon the manufacturer's model year designation of the vehicle.

<u>Age of Vehicle</u>	<u>Tax Due</u>
0 – 5 years	\$85.00
6 years – 10 years	75.00
11 years – 15 years	55.00

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16 years – 20 years 35.00

21 years -- 25 years 15.00

Over 25 years 10.00

The rate of tax for Class A motorcycles or autocycles is fifteen
dollars (\$15.00), regardless of the vehicle's age.

SECTION 3. [Effective 09/01/02]

(1) This section shall be known, and may be cited as, the "Tennessee Temporary Funding Plan."

(2) Tennessee Code Annotated, Section 67-4-506, is amended by deleting the section in its entirety.

(3) Tennessee Code Annotated, Section 67-6-101, is amended by adding the following sentence to the end of the section:

Except to the extent otherwise required by the provisions of §67-6-228, the tax imposed by this chapter is a state tax for state purposes only, and no county or municipality or taxing district shall have power to levy any like tax.

(4)

(a) Tennessee Code Annotated, Section 67-6-102(24)(F)(viii), is amended by deleting the following words, figures and symbols:

. This subdivision (24)(F)(viii) does not apply to the renting or providing of space to a craft fair, antique mall, or book fair or gun show, if such gun show or book fair is sponsored by a not-for-profit corporation. This

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subdivision (24)(F)(viii) also does not apply to the renting or providing of space at a flea market or the renting or providing of space at conventions, trade shows, or expositions, if such conventions, trade shows, or expositions do not allow the general public to enter the exhibit area for the purpose of making sales or taking orders for sales

(b) Tennessee Code Annotated, Section 67-6-102(29), is amended by deleting the following words, figures and symbols:

. "Tangible personal property" does not include utility poles, anchors, guys, and conduits, and such facilities shall be deemed to be real property for the purposes of this chapter

(c) Tennessee Code Annotated, Section 67-6-102(30)(D), is amended by deleting the words and symbol "public pay telephone services,".

(5)

(a) Tennessee Code Annotated, Sections 67-6-103(a)(3)(A), (a)(3)(B)(i) and (a)(3)(E), are amended by deleting the words, figures and symbols "four and fifty-nine hundred twenty-five ten-thousands percent (4.5925%)" and by substituting instead the following:

three and seventy-four hundred thirty-seven ten-thousandths percent
(3.7437%)

(b) Section 1(9)(b) of this act is repealed.

(c) Tennessee Code Annotated, Section 67-6-103, is amended by deleting subsection (f).

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(6)

(a) Tennessee Code Annotated, Section 67-6-202(a), is amended by deleting the words, figure and symbols "seven percent (7%)" and by substituting instead the following:

eight and three-fourths percent (8.75%)

(b) Tennessee Code Annotated, Section 67-6-203(a), is amended by deleting the words, figure and symbols "seven percent (7%)" and by substituting instead the following:

eight and three-fourths percent (8.75%)

(c)

(1) Tennessee Code Annotated, Sections 67-6-204(a)(1), (a)(2) and (c)(1), are amended by deleting the words, figure and symbols "seven percent (7%)" and by substituting instead the following:

eight and three-fourths percent (8.75%)

(2) Tennessee Code Annotated, Sections 67-6-204(b), is amended by deleting the subsection in its entirety.

(d)

(1) Tennessee Code Annotated, Section 67-6-205(a), is amended by deleting the words, figure and symbols "seven percent (7%)" and by substituting instead the following:

eight and three-fourths percent (8.75%)

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(2) Tennessee Code Annotated, Section 67-6-205, is amended by adding the following language as a new, appropriately designated subsection:

(c) In addition to those services subject to taxation pursuant to subsection (a) on August 31, 2002, tax at the rate set forth in subsection (a) shall also be levied on the following services, regardless of the location of the service provider's place of business, whenever a charge is imposed for performance of the following services within the boundaries of this state:

(1) Disinfecting and pest control services to dwellings and other buildings;

(2) Cleaning and maintenance services to dwellings and other buildings;

(3) Detective, security and armored services (including, but not necessarily limited to, detective agencies, fingerprint services, private investigators and security guards and personnel);

(4) Security systems services (including, but not necessarily limited to, installation, monitoring and maintenance of security systems devices, such as burglar and fire alarms and electronic surveillance cameras and equipment);

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(5) Landscape and horticultural services (including, but not necessarily limited to, landscape design, counseling and planning; lawn and garden services; and ornamental plant, shrub and tree planting, grooming and maintenance services);

(6) Barbering services, as defined in §62-3-105, and cosmetology services, as defined in §62-4-102(a)(3); and

(7) Operator or crew services rendered with regard to any leased or rented personal property subject to taxation under §67-6-204.

(7) Tennessee Code Annotated, Section 67-6-212, is amended by deleting the section in its entirety and by substituting instead the following:

§67-6-212.

(a) There is levied a tax at a rate of eight and three-fourths percent (8.75%) of the gross receipts or gross proceeds of each sale at retail of the following:

(1) Dues or fees to any membership sports, leisure or recreation club, including free or complimentary dues or fees, when such are made in connection with a valuable contribution to any such establishment or organization, which shall have the value equivalent to the charge that would otherwise have been

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made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

(2) Sales of tickets, fees or other charges made for admission to or voluntary contributions made to any place of amusement, sports, entertainment, leisure, exhibition, display or any other recreational event or activity, including free or complimentary admissions when made in connection with a valuable contribution to any organization or establishment holding or sponsoring such activities which shall have the value equivalent to the charge that would have otherwise been made;

(3) Charges made for the privilege of entering or engaging in any kind of recreational or leisure activity, when no admission is charged spectators, such as tennis, racquetball or handball courts;

(4) Charges made for the privilege of using tangible personal property for any amusement, sports, entertainment, leisure or recreational activity such as trampolines, golf carts, bowling shoes, skates or other sports and athletic equipment.

(5) Charges made for the privilege of occupancy in any hotel, motel, inn, tourist camp, tourist court, tourist cabin or any other place in which rooms, lodging or other accommodations are regularly furnished to transients for a consideration;

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(6) Charges and fees made for short-term rentals of any automobile, passenger van or pickup truck. As used in this item, "short term" means any period of ninety (90) consecutive, calendar days or less;

(7) Charges made for the privilege of using any machine or device intended to provide the user any form of amusement, entertainment, music or game; and

(8) Charges made for the privilege of using any vending machine or device by which merchandise is sold or delivered to the user.

(b) Free or complimentary dues or fees which shall have the value equivalent to the charge that would have otherwise been made shall be taxed under the provisions of this section, unless such free or complimentary dues or fees are provided to persons who attend a public school or public college or university.

(c) The provisions of this section shall not be construed to levy a tax on any sale or transfer of any interest in real property, regardless of whether or not such property is used for amusement or recreational purposes.

(d) The provisions of this section taxing charges for admission shall be construed to include all charges whatsoever made for admission to professional sporting events, including any charge for a seat license,

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skybox, luxury suite, or any other accommodation for spectators, whether styled as a license, lease, rental or otherwise.

(8) Tennessee Code Annotated, Section 67-6-221(a), is amended by deleting the words, figure and symbols "seven and one-half percent (7.5%)" and by substituting instead the following:

eight and three-fourths percent (8.75%)

(9)

(a) Tennessee Code Annotated, Section 67-6-226, is amended by deleting the words, figures and symbols "eight and one-quarter percent (8.25%)" and by substituting instead the following:

eight and three-fourths percent (8.75%)

(b) Tennessee Code Annotated, Section 67-6-226, is further amended by deleting the following language:

, except such state tax shall not apply to television programming or television service charges or fees in an amount less than fifteen dollars (\$15.00) provided by a cable television service provider authorized pursuant to Title 7, Chapter 59, or by a provider of wireless cable television services (multipoint distribution service/multichannel multipoint distribution service) offered for public consumption

(c) Tennessee Code Annotated, Section 67-6-227, is amended by deleting the words, figures and symbols "eight and one-quarter percent (8.25%)" and by substituting instead the following:

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eight and three-fourths percent (8.75%)

(10) Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following language as new, appropriately designated sections:

§67-6-229.

(a)

(1) Notwithstanding any provision of this chapter to the contrary, except as otherwise provided in subdivision (2), the retail sale of food and food ingredients for human consumption shall be taxed at the rate of five percent (5%) of the sales price of each single article of food or food ingredient.

(2) The retail sale of the following food and food ingredients shall be taxed at the rate levied by §67-6-202:

(A) Candy;

(B) Dietary supplements; and

(C) Prepared food.

(3) For purposes of this section:

(A) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration.

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(B) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(a) A vitamin;

(b) A mineral;

(c) An herb or other botanical;

(d) An amino acid;

(e) A dietary substance for use by humans

to supplement the diet by increasing the total dietary intake; or

(f) A concentrate, metabolite, constituent, extract, or combination of any ingredient described above; and

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "Supplement Facts" box

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found on the label and as required pursuant to 21 C.F.R.
§101.36.

(C) "Prepared food" means:

(i) Food sold in a heated state or heated by the
seller; or

(ii) Two (2) or more food ingredients mixed or
combined by the seller for sale as a single item; or

(iii) Food sold with eating utensils provided by the
seller, including plates, knives, forks, spoons, glasses,
cups, napkins, or straws. "Prepared food" does not include
food that is only sliced, repackaged, or pasteurized.

(b) Except as otherwise provided in this section, "food and food
ingredients" means substances, whether in liquid, concentrated, solid,
frozen, dried, or dehydrated form, that are sold for ingestion or chewing
by humans and are consumed for their taste or nutritional value.

(c) As used in this section, "food and food ingredients" does not
include the following items which shall be taxed at the rate levied by §67-
6-202:

(1) Beer, wine or any other alcoholic beverage, however
designated, regulated pursuant to Title 57, Chapter 3, 4 or 5; or

(2) Cigarettes, cigars or any other product containing
tobacco.

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§67-6-230. Notwithstanding any provision of this chapter or any other law the contrary, sales and use tax levied by this chapter at the rate of eight and three-fourths percent (8.75%) shall apply to the first three thousand two hundred dollars (\$3,200) of the sales price of each single article; **provided, however, if** any portion of the sales price of such single article exceeds three thousand two hundred dollars (\$3,200), **then** such excess portion of the sales price shall be taxed at the rate of six percent (6%).

(11) Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by deleting §§67-6-309 and 67-6-311.

(12)

(a) Tennessee Code Annotated, Section 67-6-330(a)(3), is amended by deleting the words "recreation club or".

(b) Tennessee Code Annotated, Section 67-6-330(a), is amended by deleting subdivisions (10), (14) and (19).

(13) Tennessee Code Annotated, Section 67-6-333, is amended by deleting the section in its entirety.

(14) Tennessee Code Annotated, Section 67-6-351, is amended by deleting the section in its entirety.

(15)

(a) Except to the extent otherwise required by the provisions of §§67-6-228(a)(2) or (b)(2), Tennessee Code Annotated, Title 67, Chapter 6, is amended

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by deleting §§67-6-701 through 67-6-710, 67-6-713 and 67-6-714 for transactions occurring on or after September 1, 2002.

(b) Tennessee Code Annotated, Section 67-6-712(a), is amended by deleting the words and punctuation "The tax levied by a county under this part shall be distributed as follows:" and by substituting instead the following:

Estimates, distributions and expenditures of proceeds pursuant to §67-6-715(b) shall be subject to the following requirements:

(c) Tennessee Code Annotated, Title 67, Chapter 6, Part 7, is amended by adding the following language as a new, appropriately designated section:

§ 67-6-715.

(a) Notwithstanding any provision of law to the contrary, in accordance with estimates developed by the department of revenue pursuant to subsection (b), a sum shall be earmarked and allocated from the general fund each fiscal year in order to substantially reimburse counties and municipalities for loss of revenue resulting from amendments to Title 67, Chapter 6, Part 7, provided in Section 3(15)(a) of this act.

(b) For fiscal year 2002-2003 and for any subsequent fiscal year during which Section 3(15)(a) is effective, the department of revenue shall estimate for each county and municipality the loss of local option sales tax revenue resulting from amendments to Title 67, Chapter 6, Part 7, provided in Section 3(15)(a) of this act. In

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calculating such estimate, the department shall utilize the local option sales tax rate in effect in such county or municipality on May 15, 2002; as well as the single article cap imposed by §67-6-702(a)(1) on May 15, 2002; as well as the local tax rate allocation in effect in such county or municipality on August 31, 2002, pursuant to the provisions of Sections 9 and 10 of Chapter No. 719 of the Public Acts of 2002; as well as the provisions of §§6-51-115, 67-6-228(a)(2) and 67-6-228(b)(2). The department shall also utilize any other data or information that the department deems relevant. In accordance with such estimate and subject to the provisions of subsection (c) and §67-6-712, each county and municipality shall receive an amount that is approximately equal to the amount of local option sales tax that the county or municipality would have received during the fiscal year, in the absence of Section 3(15)(a) of this act. It is the legislative intent that distributions made pursuant to this subsection shall be subject to the distribution and expenditure requirements of §67-6-712.

(c) From the sum earmarked, allocated and distributed each fiscal year to counties and municipalities pursuant to this section, one and one hundred twenty-five thousandths percent (1.125%) shall be retained by the department of revenue to cover the state's expenses in implementing and administering the

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provisions of this section and in distributing such funds to counties
and municipalities.

SECTION 4.

(a) In accordance with the provisions of Title 4, Chapter 5, the department of revenue is authorized to promulgate such rules, including emergency and public necessity rules, as may be necessary to ensure and promote the efficient, effective and timely implementation of this act and collection of taxes levied in Sections 1, 2, and 3 of this act.

(b) Notwithstanding any provision of this act to the contrary, in accordance with the provisions of Title 4, Chapter 5, the department of revenue is authorized by rule to temporarily adjust and correct the local-share rate, otherwise established by Section 3(5)(a) of this act, as may be necessary to ensure that Section 3(5)(a) produces, for fiscal year 2002-2003, local-share revenues approximately equal to local-share revenues produced pursuant to §67-6-103(a) during fiscal year 2001-2002. **If** any such adjustment and correction is made for fiscal year 2002-2003, **then** the department shall timely submit to the general assembly recommended amendments to §67-6-103(a), if any, as may be needed for fiscal years beginning on or after July 1, 2003.

SECTION 5. **If** any provision of this act or the application thereof to any person or circumstance is held invalid, **then** such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6.

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(a)

(1) For purposes of rule promulgation, including emergency and public necessity rules, this act shall take effect on becoming law, the public welfare requiring it; and

(2) For purposes of administrative preparation and preliminary activities necessary to the efficient, effective and timely collection of taxes levied herein, this act shall take effect on becoming law, the public welfare requiring it.

(3) Sections 4 and 5 of this act shall take effect on becoming law, the public welfare requiring it.

(b) For all other purposes,

(1) Section 1 of this act shall take effect on July 1, 2002, the public welfare requiring it;

(2) Section 2 of this act shall take effect on September 1, 2002, the public welfare requiring it;

(3) Section 3 of this act (i.e., the Tennessee Temporary Funding Plan), shall take effect on September 1, 2002, the public welfare requiring it, and shall remain in effect through December 31, 2005, at which time:

(A) Section 3 is repealed; and

(B)

(i) The language of Title 67, Chapter 4; [to the extent that such language is altered by the provisions of Section 3], is revived and restored to its status as of August 31, 2002; and

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(ii) The language of Title 67, Chapter 6, [to the extent that such language is altered by the provisions of Section 3], is also revived and restored to its status as of August 31, 2002; provided, however, the language of §§67-6-103(f), 67-6-202(a), 67-6-203(a), 67-6-204(a) and (c), and 67-6-205(a) [to the extent that such language is altered by the provisions of Section 3], is revived and restored to its status as of June 30, 2002.

(c) The Tennessee Code Commission is hereby authorized to make such changes to the text of Tennessee Code Annotated as shall be necessary to implement the purpose and intent of Section 6(c) of this act.